

AMENDMENTS TO THE DRAWINGS

The attached sheets of drawings include changes to Figures 1 and 2. These sheets replace the original sheets including Figures 1 and 2.

Attachment: Replacement Sheets: two (2)

REMARKS

Claims 1-35 are pending in this application. By this Amendment, claims 8, 18, 24, and 33-35 are amended. Claims 1, 8, 18, 24 and 32-35 are independent.

Allowable Subject Matter

Applicants appreciate the indication of allowable subject matter in claims 8-31 and 33-35. However, it is respectfully submitted that claims 1-7 and 32 are also allowable in view of the foregoing amendments and final remarks.

Objection to the Drawings

The Office Action states that Figures 1-5 should be designated as “prior art”. By this Amendment, Figures 1 and 2 have been amended to include the label “conventional art” as shown in the Replacement Sheets. However, Figures 3-5 have not been labeled as “conventional art” as it is submitted that Figures 3-5 illustrate subject matter disclosed in the claimed invention. For instance, Applicant’s invention may encompass two spaced apart antennas and a portion of the transmitter capable of transmitting signals using transmit diversity and without using the transmit diversity, as broadly described.

The Office Action objects to the drawings under 37 C.F.R. § 1.83 (a). In particular, the Examiner asserts that the “congruent sharing of the amplification of the at least first and second diversity-encoded signals and the second signals between at least two amplifiers must be shown or the feature(s) canceled from the claim(s)”. However, it is respectfully submitted that the drawings disclose the alleged disputed subject matter. For example, as shown in Figure 6 and adequately described on page 16, lines 4-9 in the specification, the transmitter 630 can communicate with mobile terminals that are during diversity-capable period, not

diversity-capable period, or during both periods. Therefore, the transmitter 630 can disclose: (1) the amplification of first and second diversity-encoded signals between amplifiers 670 and 675; (2) share the amplification of the second signal between amplifiers 670 and 675; or both (1) and (2) concurrently. Thus, it is respectfully submitted that the congruent sharing of the amplification signals is shown in the figures.

Thus, reconsideration and withdrawal of the objections to the drawings are respectfully requested.

Objection to the Claims

Claims 4, 7, 8-31, and 33-35 are objected to due to informalities. By this Amendment, it is respectfully submitted that these claims have been amended to clarify the invention, and thus obviate the objection. Applicants submit that these claim amendments are non-narrowing in scope, and are not related to reasons of patentability. Accordingly, reconsideration and withdrawal of the objection are respectfully requested.

Claim Rejection – 35 U.S.C. § 103

Claims 1-7 and 33 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Dabak, U.S. Patent 6,724,828 in view of Zhang et al. (hereinafter “Zhang”), U.S. Patent 6,754,872. The rejection is respectfully traversed.

Applicants agree with the Examiner that Dabak does not disclose sharing the amplification of the non-diversity signal between the at least two amplifiers. The Examiner attempts to overcome the admitted deficiency of Dabak by arguing the Zhang teaches sharing the amplification of the non-diversity signal between the at least two amplifiers. However, the process of Zhang is completely different from the process of the claimed invention. In

particular, Zhang cannot be used to derive a sharing step. The Examiner asserts that Zhang discloses a diversity transmission system having a plurality of antenna paths, wherein each of the transmission paths include a power amplifier 221 and 222. However, the output signals from the amplifiers 221 and 222 are separate and distinct, as the output signals pass through corresponding band pass filters 223 and 224 (Fig. 2). Accordingly, Dabak and Zhang, individually or in combination, fail to disclose or suggest sharing the amplification of the second signal between the at least two amplifiers, as recited in claims 1 and 32.

Further, one of ordinary skill in the art would not have been motivated to combine the teachings of Zhang with the teachings of Dabak with any expectation of success, as the signals in Zhang cannot be utilized in a non-diversity transmission. Accordingly, if the alleged modification or combination of the prior arts would change the principle of operation of the prior art invention, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. In re Ratti, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). Further, no where in Zhang is there any motivation to modify the disclosure of Dabak in the manner asserted by the Office Action. In the absence of any motivation to do so, one of ordinary skill in the art would not have combined the references and then modified the resulting combination as asserted in the Office Action to obtain the claimed invention.

For at least the reasons, Applicants respectfully submit that Dabak and Zhang, individually or in combination, fail to disclose or render obvious the features recited in independent claims 1 and 32. Claims 2-7, which dependent from independent claim 1 are likewise distinguished over the applied arts for at least the reasons discussed, as well as for the additional features they recite. Reconsideration and withdrawal of rejection are respectfully requested.

CONCLUSION

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of claims 1-35 in connection with the present application is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By 
for Gary D. Yaeura Reg. No. 35,416

P.O. Box 8910
Reston, Virginia 20195
(703) 668-8000

GDY/DJC/cdw

Attachments: Replacement Sheets: two (2)